

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

LUKE CUELLO,

Plaintiff,

vs.

NEIL MILLER, Buffalo County Sheriff;
SEAN EATHERTON, Buffalo County
Attorney; MICHAEL MEFFORD,
Buffalo County Attorney; KANE
RAMSEY, Buffalo County Attorney;
JOHN P. RADEMACHER, Judge; PAUL
GORDON, Director of YRTC; and
CHAD HUNT, Lt. - Buffalo County Jail;

Defendants.

8:19CV320

**MEMORANDUM
AND ORDER**

This matter is before the court on Plaintiff's correspondence filed on September 20, 2019 ([filing no. 10](#)), which the court liberally construes as a response to the court's order to show cause ([filing no. 9](#)) and as a motion to voluntarily dismiss pursuant to [Federal Rule of Civil Procedure 41](#). On September 13, 2019, the court ordered Plaintiff to show cause within 30 days why this case should not be dismissed for failure to pay the initial partial filing fee assessed by the court on August 12, 2019. In his response, Plaintiff states he does not wish to move forward with his case as he does not "have the money to move forward." ([Filing No. 10](#).) Rule 41(a) states that a plaintiff may dismiss an action without a court order by filing "a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment." [Fed. R. Civ. P. 41\(a\)\(1\)\(A\)\(i\)](#). In addition, Rule 41(a)(2) provides that an action may be dismissed at the plaintiff's request "on terms that the court considers proper." [Fed. R. Civ. P. 41\(a\)\(2\)](#). Here, Plaintiff asks the court to dismiss this action, Defendants have not been served

with process, and Plaintiff has not demonstrated cause for his failure to pay the \$0.13 initial partial filing fee. Accordingly,

IT IS THEREFORE ORDERED that:

1. Plaintiff's request for dismissal of this action ([filing no. 10](#)) is granted. This matter is dismissed without prejudice.

2. A separate judgment will be entered in accordance with this Memorandum and Order.

Dated this 3rd day of October, 2019.

BY THE COURT:

s/ Richard G. Kopf
Senior United States District Judge